AMENDMENTS TO THE DRAWINGS

Applicant submits herewith seven replacement drawing sheets for FIGS. 9, 10, 13, 14, 16, 23, and 24. No new matter has been added by way of this amendment.

Applicant's specification refers to "connector 107" in the description of both FIG. 9 and FIG. 10. However, reference number "107" was inadvertently omitted from FIGS. 9 and 10. The attached sheets include new versions of FIGS. 9 and 10 incorporating the omitted reference number "107." In addition, Applicant's specification refers to "button moldings 100, 102" in the description of FIG. 10. However, reference numbers "100" and "102" were inadvertently omitted from FIG. 10. The new version of FIG. 10 included in the attached sheets also incorporates the omitted reference numbers "100" and "102."

Applicant's specification refers to "connector 113" in the description of both FIG. 13 and FIG. 14. However, reference number "113" was inadvertently omitted from FIGS. 13 and 14. The attached sheets include new versions of FIGS. 13 and 14 incorporating the omitted reference number "113." In addition, Applicant's specification refers to "display circuit board 104" and "antenna circuit board 106" in the description of FIG. 14. However, the display circuit board illustrated by FIG. 14 was inadvertently improperly identified with reference number "106" and the antenna circuit board illustrated by FIG. 14 was inadvertently improperly identified with reference number "104." The new version of FIG. 14 included in the attached sheets replaces the incorrect reference number "104" with the correct reference number "106" for the antenna circuit board, and replaces the incorrect reference number"106" with the correct reference number "104" for the display circuit board.

Applicant's specification refers to "antenna circuit board 106" in the description of FIG. 16. However, the antenna circuit board illustrated by FIG. 16 was inadvertently improperly identified with reference number "104." The attached sheets include a new version of FIG. 16 that replaces the incorrect reference number"104" with the correct reference number "106" for the antenna circuit board. In addition, Applicant's amended specification refers to "antenna circuit board 106" in the description of FIGS. 23 and 24. However, the antenna circuit board illustrated by FIGS. 23 and 24 was inadvertently improperly identified with reference number "104." The attached sheets include new versions of FIGS. 23 and 24 that replace the incorrect reference number"104" with the correct reference number "106" for the antenna circuit board.

To summarize, the attached sheets include a new version of FIG. 9 incorporating the omitted reference number "107," a new version of FIG. 10 incorporating the omitted reference numbers "100", "102", and "107," a new version of FIG. 13 incorporating the omitted reference number "113," a new version of FIG. 14 incorporating the omitted reference number "113" and correcting the reference numbers for display circuit board "104" and antenna circuit board "106," and new versions of FIGS. 16, 23, and 24 correcting the reference number for antenna circuit board "106."

REMARKS

In response to the Office Action dated April 5, 2006, Applicant respectfully requests reconsideration in view of the following remarks. Applicant has not amended or added any claims. Claims 1-11 and 13-22 have been withdrawn pursuant to a Requirement for Restriction, claims 12 and 36 were previously canceled, and claims 23-35 and 37-45 are pending.

The specification has been amended to correct inadvertent typographical errors.

Restriction Under 35 U.S.C. § 121

In the Office Action, the Examiner restricted claims 1-45 under 35 U.S.C. § 121 as follows:

Group I. Claims 1-22, drawn to a method for assembling a programmer for a medical device, and

Group II. Claims 23-45, drawn to a programmer for a medical device.

During a telephone conversation with the Examiner on March 23, 2006, Applicant provisionally elected Group II without traverse. Applicant affirms this election without traverse.

Claim Rejections Under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 23-28, 34, 35, and 38-44 under 35 U.S.C. 102(b) as being anticipated by Mumford et al. (US 4,432,360). Applicant respectfully traverses this rejection. Mumford et al. fails to disclose each and every feature in the claimed invention, as required by 35 U.S.C. 102(b), and provides no teaching that would have suggested the desirability of modification to include such features. For example, Mumford et al. fails to disclose each feature in independent claim 23, and for that reason, claim 23 is in condition for allowance. Claims 24-35 and 37-45 depend from claim 23 and are allowable therewith.

With respect to Applicant's independent claim 23, the Mumford et al. reference fails to teach or suggest a "first housing member . . . wherein the first housing member, the first circuit board, the second circuit board, the second housing member and the plate member are assembled in a stacked z-axis configuration," as recited by claim 23. Furthermore, the Office Action is silent as to the presence of a "first housing member" in the Mumford et al. reference.

Mumford et al. also fails to teach or suggest a "first circuit board" or a "second circuit board" as recited by Applicant's claim 23 In rejecting claim 23, the Examiner interpreted the Mumford et al. reference as teaching a first circuit board (an alpha numeric display 16), a second circuit board (a touch sensitive switch matrix overlay 18), a second housing member (substrate 20), a loading port (apertures 24a), and a plate member (column path 20a). However, neither the alpha numeric display (16) nor the touch sensitive switch matrix overlay (18) is a circuit board because neither support and/or electrically connect electronic components in the same manner as a circuit board.

In the present application, a display circuit board 104 is given as an example of a circuit board. The display circuit board 104 supports and electrically connects electrical components because it carries a display 28 and associated display electronics. (See paragraph 99 at page 20, line 5). On the other hand, the alpha numeric display 16 in the Mumford et al. reference is merely an electrical component (e.g., a gas discharge display matrix), and does not support and/or electrically connect other components. (See col. 4, lines 45-48).

The touch sensitive switch matrix overlay 18 of the Mumford et al. reference also fails to support and/or electrically connect electrical components. Rather, the switch matrix overlay 18 merely produces outputs on a ribbon connector 30, which then provides the outputs to decoding logic in a console 10. (See Mumford et al., col. 5, lines 26-32). In this way, the Mumford et al. reference fails to disclose at least two elements of Applicant's claim 23.

Applicant's claim 23 also recites "memory on one of the first and second circuit boards." As discussed above, Mumford et al. does not teach circuit boards, much less circuit boards comprising memory. Even assuming the Office Action is correct and the display 16 and matrix overlay 18 are first and second circuit boards, respectively, Mumford et al. neither explicitly nor inherently discloses a display 16 or matrix overlay 18 comprising memory. As a result, Mumford et al. cannot anticipate Applicant's claim 23.

Moreover, Mumford et al. fails to teach or suggest "a second housing member placed over the second circuit board to substantially enclose the first and second circuit boards," as recited by Applicant's claim 23. The substrate 20 interpreted by the Examiner to be a "second housing" is a part of the switch matrix overlay 18, which the Examiner interpreted to be a "second circuit board." Even assuming the display 16 of the Mumford et al. reference is a "first

circuit board" and the touch sensitive matrix overlay 18 is a "second circuit board," Mumford et al. does not teach a substrate 20 that substantially encloses the display 16 and touch sensitive matrix overlay 18. Mumford et al. is silent as to the extent the substrate 20 encloses, or whether the substrate even encloses, the matrix overlay 18.

Yet another element of Applicant's claim 23 Mumford et al. fails to teach or suggest is "a loading port . . . to load instructions into memory on one of the first and second circuit boards." As previously stated, in rejecting claim 23, the Examiner interpreted the apertures 24a in Mumford et al. to be a loading port. However, the apertures 24a are not in any way a "loading port" as the phrase is used by claim 23. The apertures 24a are not for loading "instructions into memory" on a first or second circuit board, as required by claim 23 of the present application.

Rather, each of the apertures 24a in the Mumford et al. device act to separate a row path 22a and column path 20a until a switch is operated by purposefully contacting the row path 22a with the column path 20a to form an electrical connection therebetween. The conductive path is formed through the apertures 24a. (See Mumford et al., col. 5, lines 14-18). In no way during this switch operation are instructions loaded into "memory on one of the first and second circuit boards," as Applicant's claim 23 recites.

Applicant's claim 23 also specifies that the loading port is "accessible via the second housing member," which is not present in the Mumford et al. reference. Again, even if the apertures 24a were a "loading port" and the substrate 20 a "second housing member," as the Office Action asserts, Mumford et al. fails to disclose that the apertures 24a are accessible via the substrate 20. As described in the present application, one advantage to having the loading port accessible through the second housing member is that a plurality of generic programmers may be pre-manufactured, and when a specific type of programmer is ordered, one of the pre-manufactured programmers may be programmed as one of the final steps in the manufacturing process. (See paragraphs 87 and 88 at page 17). The loading port is subsequently covered by the plate member, which as described below, is also missing from the Mumford et al. reference. The Mumford et al. fails to disclose a programmer that provides a similar advantage.

The Mumford et al. reference also fails to teach a "plate member placed within the second housing member to cover the loading port." The Office Action asserts that element 20a in the Mumford et al. reference is a plate member. However, element 20a is a column conductive path

within the substrate 20 (which the Office Action asserts is a "second housing member") and is used to form a switch. (See Mumford et al., col. 5, lines 1-6). The conductive path 20a is not a "plate member . . . to cover the loading port." Mumford et al. fails to disclose any structure even remotely resembling a plate member placed within a second housing member to cover a loading port to load instructions into memory, as set forth in claim 23.

In order to support an anticipation rejection under 35 U.S.C. 102(b), it is well established that a prior art reference must disclose each and every element of a claim. This well-known rule of law is commonly referred to as the "all-elements rule."[1] If a prior art reference fails to disclose any element of a claim, then rejection under 35 U.S.C. 102(b) is improper. [2]

As discussed above, Mumford et al. fails to disclose not one but a vast majority of the limitations set forth in claim 23. For at least the reasons discussed above, the Mumford et al. reference fails to support a prima facie case for anticipation of Applicant's claim 23 under 35 U.S.C. 102(b). Claims 24-35 and 37-45 depend from claim 23 and as a result, a prima facie case of anticipation of Applicant's claims 24-35 and 37-45 has not been established. Withdrawal of these rejections is requested.

Claim Rejections Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 29, 36, and 45 under 35 U.S.C. 103(a) as being unpatentable over Mumford et al. (US 4,432,360). The Examiner also rejected claim 37 under 35 U.S.C. 103(a) as being unpatentable over Mumford et al. (US 4,432,360) in view of Wescott (US Publication 2004/0001432) and claims 30-33 under 35 U.S.C. 103(a) as being unpatentable over Mumford et al. (US 4,432,360) in view of Kurjenheimo et al. (US Publication 2004/0100412).

With respect to claim 36, Applicant notes that claim 36 was canceled in a Preliminary Amendment filed on March 8, 2004.

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[1] *See Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 231 USPQ 81 (CAFC 1986) ("it is axiomatic that for prior art to anticipate under 102 it has to meet every element of the claimed invention").

[2] *Id. See also Lewmar Marine, Inc. v. Barient, Inc.* 827 F.2d 744, 3 USPQ2d 1766 (CAFC 1987); *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (CAFC 1990); *C.R. Bard, Inc. v. MP Systems, Inc.*, 157 F.3d 1340, 48 USPQ2d 1225 (CAFC 1998); *Oney v. Ratliff*, 182 F.3d 893, 51 USPQ2d 1697 (CAFC 1999); *Apple Computer, Inc. v. Articulate Systems, Inc.*, 234 F.3d 14, 57 USPQ2d 1057 (CAFC 2000).

Applicant respectfully traverses the rejections of claims 29, 30-33, 37, and 45. The applied references fail to disclose or suggest the inventions defined by Applicant's claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention. For example, as discussed above, the Mumford et al. reference fails to teach or suggest each and every element of Applicant's independent claim 23. Furthermore, none of the other references of record, together or in combination, teach or suggest each and every element of claim 23. Consequently, such references fail to provide any teaching sufficient to overcome the basic deficiencies already identified in the Mumford et al. reference. Without such a teaching or suggestion, the combination of references recited above cannot render claims 29, 30-33, 37 or 45, which depend from independent claim 23, obvious.

For at least these reasons, the Examiner has failed to establish a prima facie case for non-patentability of Applicant's claims 29, 30-33, 37, and 45 under 35 U.S.C. 103(a). Withdrawal of these rejections is requested.

In view of the fundamental deficiencies evident in Mumford et al. and the other applied references, it is not necessary to discuss in detail the additional patentable differences presented by the various dependent claims. In reserving comment, however, Applicant neither admits nor acquiesces in the Examiner's interpretation with respect to the teachings in such applied references or with respect to any features set forth in the dependent claims.

CONCLUSION

Claims 23-35 and 37-45 in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed agent to discuss this application.

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